



DEPARTMENT OF HOMELAND SECURITY

6 CFR Part 37

[Docket No. DHS-2020-0028]

Notification of Document Availability and Reopening of Comment Period on Request for Information: Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes; Mobile Driver's Licenses

AGENCY: Office of Strategy, Policy, and Plans, Department of Homeland Security (DHS).

ACTION: Notification of document availability and reopening of comment period.

SUMMARY: The Department of Homeland Security (DHS) issued a Request for Information (RFI) entitled, “Minimum Standards for Driver’s Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes; Mobile Driver’s Licenses” in April 2021 that referenced a draft industry standard of the International Organization for Standardization (ISO) and International Electrotechnical Commission (IEC), ISO/IEC 18013–5. Through this document, DHS is announcing that the American National Standards Institute (ANSI) is making a view-only version of the draft industry standard available to the public. DHS is also announcing the reopening of the public comment period for the RFI for an additional 30 days to provide additional time for commenters to consider the draft industry standard. DHS will consider all comments received from April 19, 2021, through **[Insert date 30 days after publication in the Federal Register]**.

DATES:

The comment period for the RFI published at 86 FR 20320 (April 19, 2021) and extended at 86 FR 31987 (June 16, 2021) is reopened through **[Insert date 30 days after**

publication in the Federal Register]. To be considered by DHS, written comments and related material must be submitted on or before this date.

ADDRESSES: You may submit comments through the *Federal e-Rulemaking Portal* at <http://www.regulations.gov>. Use the Search bar to find the docket, using docket number DHS-2020-0028. See **SUPPLEMENTARY INFORMATION** for format and other information about comment submissions.

FOR FURTHER INFORMATION, CONTACT: Steve Yonkers, Director, REAL ID Program, Office of Strategy, Policy, and Plans, United States Department of Homeland Security, Washington, DC 20528, Steve.Yonkers@hq.dhs.gov, (202) 447-3274, or George Petersen, Senior Program Manager, Enrollment Services and Vetting Programs, Transportation Security Administration, Springfield, VA 20598, George.Petersen@tsa.dhs.gov, (571) 227-2215. Please do not submit comments to these email addresses.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

DHS invites interested persons to comment on the RFI by submitting written comments, data, or views. See **ADDRESSES** above for information on where to submit comments. Except as stated below, all comments received may be posted without change to <http://www.regulations.gov>, including any personal information you have provided.

Commenter Instructions

DHS asks that each commenter include the identifying number of the specific question(s) to which they are responding. Each comment should also explain the commenter's interest in the RFI and how their comments should inform DHS's consideration of the relevant issues.

DHS asks that commenters provide as much information as possible, including any supporting research, evidence, or data. In some areas, DHS requests very specific

information. Whenever possible, please provide citations and copies of any relevant studies or reports on which you rely, as well as any additional data which supports your comment. It is also helpful to explain the basis and reasoning underlying your comment. Although responses to all questions are preferable, DHS recognizes that providing detailed comments on every question could be burdensome and will consider all comments, regardless of whether the response is complete. For more information on the mDLs and the issues for which DHS solicits comments, please see the RFI.¹

Handling of Confidential or Proprietary Information and SSI Submitted in Public Comments

Do not submit comments that include trade secrets, confidential business information, or sensitive security information² (SSI) to the public regulatory docket. Please submit such comments separately from other comments on the RFI. Commenters submitting this type of information should contact the individual in the **FOR FURTHER INFORMATION CONTACT** section for specific instructions.

DHS will not place comments containing SSI, confidential business information, or trade secrets in the public docket and will handle them in accordance with applicable safeguards and restrictions on access. DHS will hold documents containing SSI, confidential business information, or trade secrets in a separate file to which the public does not have access and place a note in the public docket explaining that commenters have submitted such documents. DHS may include a redacted version of the comment in the public docket. If an individual requests to examine or copy information that is not in the public docket, DHS will treat it as any other request under the Freedom of

¹ 86 FR at 20325-26.

² “Sensitive Security Information” or “SSI” is information obtained or developed in the conduct of security activities, the disclosure of which would constitute an unwarranted invasion of privacy, reveal trade secrets or privileged or confidential information, or be detrimental to the security of transportation. The protection of SSI is governed by 49 CFR part 1520.

Information Act (FOIA) (5 U.S.C. 552) and DHS's FOIA regulation found in 6 CFR part 5.

Background

The REAL ID Act of 2005³ and the DHS implementing regulations⁴ set minimum requirements for state-issued driver's licenses and identification cards accepted by Federal agencies for official purposes, which the Act defines as accessing Federal facilities, boarding federally regulated commercial aircraft, entering nuclear power plants, and any other purposes that the Secretary shall determine. The REAL ID Modernization Act, enacted in December 2020, clarifies that the REAL ID Act applies to mobile or digital driver's licenses that have been issued in accordance with regulations prescribed by the Secretary.⁵ Beginning on May 3, 2023, Federal agencies may only accept driver's licenses and state-issued identification documents for official purposes that are REAL ID-compliant and issued by a REAL ID compliant state.⁶

On April 19, 2021, DHS published an RFI⁷ to solicit comments from the public to help inform a potential rulemaking that would amend 6 CFR part 37 to set the minimum technical requirements and security standards for mDLs to enable Federal agencies to accept mDLs for official purposes under the REAL ID Act and regulation.⁸ The RFI announced a comment period closing on June 18, 2021. On June 16, 2021, DHS announced a public meeting on the RFI on June 30, 2021, to provide an additional forum for comments by stakeholders and other interested persons regarding the issues identified in the RFI and extended the comment period until July 30, 2021.⁹

³ The REAL ID Act of 2005—Title II, Division B of the FY05 Emergency Supplemental Appropriations Act, Pub. Law 109-13 (119 Stat. 302; May 11, 2005), codified at 49 U.S.C. 30301 note, as amended.

⁴ 6 CFR part 37 (REAL ID Driver's Licenses and Identification Cards).

⁵ REAL ID Modernization Act, Title X, Div. U of the Consolidated Appropriations Act, 2021, Pub. Law No. 116-260 (Dec. 27, 2020).

⁶ See 6 CFR 37.5(b) and (c).

⁷ See 86 FR 20320 (April 19, 2021).

⁸ 86 FR 20320.

⁹ 86 FR 31987 (June 16, 2021).

At the public meeting, several commenters suggested the importance of public access to the draft industry standard ISO/IEC 18013-5, which was referenced in the RFI.¹⁰ To accommodate the public's interest in access to the draft standard, the American National Standards Institute (ANSI) informed DHS that it will make the final draft version of the standard, known as a Final Draft International Standard, or FDIS, available during the remainder of the reopened comment period.¹¹ See "Document Availability" below for instructions on accessing the standard.

Document Availability

ANSI, which is a private organization not affiliated with DHS, will provide public access to the final draft industry standard ISO/IEC 18013-5 until **[Insert date 30 days after publication in the Federal Register]**. ANSI advises interested persons to visit the following website to obtain access: <https://www.surveymonkey.com/r/DQVJYMK>. This link will direct interested persons to a non-government website that is not within the Federal government's control and may not follow the same privacy, security, or accessibility policies as Federal government websites. ANSI requires individuals to complete an online license agreement form, which will ask for name, professional affiliation, and email address, before view-only access to the final draft standard will be granted. ANSI will provide access on a view-only basis, meaning copies of the document cannot be downloaded or modified. Individuals who access non-governmental sites to view this draft standard are subject to the policies of the owner of the website.

DHS continues to invite comments on any aspect of RFI through the reopened comment period and welcomes any additional comments and information that would promote an understanding of the broader implications of acceptance of mobile or digital

¹⁰ 86 FR at 20322.

¹¹ ISO approved the standard on August 19, 2021, but it is not available until after publication later this year. DHS does not expect any material or substantive changes between this draft and the final published standard. See www.iso.org/standard/69084.html.

driver's licenses by Federal agencies for official purposes. In addition to comments on the draft standard as discussed in detail in the RFI,¹² this request includes comments relating to the economic, privacy, security, environmental, energy, or federalism impacts that might result from a future rulemaking based on input received as a result of the RFI. DHS will consider all comments received from April 19, 2021, through **[Insert date 30 days after publication in the Federal Register]**.

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[FR Doc. 2021-19812 Filed: 9/15/2021 8:45 am; Publication Date: 9/16/2021]

¹² 86 FR 20320 (April 19, 2021).